HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 4136 of 2005

Dated 18th September, 2007

Between
M/s. Classic Lodge,
21st Centuary Complex, Nampally,Hyderabad
rep. By its Proprietor Abdus Samee Khan

…Petitioner

and

Transmission Corporation of AP Limited
(AP TRANSCO), rep. By its Chairman & MD
Vidyut Soudha, Hyderabad, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 4136 of 2005

ORDER:

This Writ Petition is filed questioning the order dated 31-12-2004 passed by the second respondent, dismissing the appeal filed by the petitioner against the final assessment order No.DEA/I/HYD/DAT.28791/D.No.5879, dated 21-7-2007, wherein it was held that the petitioner is responsible for the pilferage of energy, and, assessed the loss sustained by the Central Power Distribution Company of AP Limited.

The primary authority, pursuant to the inspection made on the allegation of pilferage of energy by the petitioner, assessed the loss sustained by the Central Power Distribution Company of AP Limited to the tune of 2,68,059/-. As against the same, the petitioner preferred

appeal before the Superintending Engineer, Assessments, Central Power Distribution Company of AP Limited. The appellate authority by impugned order, allowed the appeal in part and estimated the loss sustained by the respondent company at Rs.66,033/-.

It is the case of the petitioner that there is no pilferage of energy at all, and, the appellate authority did not provide opportunity of hearing before disposal of the appeal.

Counter affidavit is filed on behalf of the respondents. In the counter affidavit, there is no clear assertion with regard to date of hearing provided to the petitioner, as stated in the notice dated 14-12-2004.

The appellate authority had passed the final order referring to the dates of hearing of the appeal on 18-11-2004 and 27-12-2004. With reference to the above said dates of hearing, notice was issued to the petitioner in the letter No.SEA/HYD/F.NO.Nil/D.No.3154/2004, dated 14-12-2004. But, a perusal of the said notice, it makes clear that there is no indication of any particular date of hearing at all. In that view of the matter, the plea of the petitioner that the appeal was disposed of without providing opportunity is to be accepted. On the above short ground, I set aside the order of the appellate authority in Lr.No SEA/HYD/SAP.No.3739/D.No.3329/2004, dated 31-12-2004 and remit the matter to the appellate authority for fresh consideration of the appeal filed by the petitioner. The second respondent-appellate authority shall issue notice of hearing to the petitioner and dispose of the appeal. Till disposal of the appeal by the appellate authority, the respondents are directed not to take any coercive steps to recover the disputed amount on account of pilferage of energy. The appellate

authority shall dispose of the appeal as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 18-9-2007.
Msnr.